

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION**

In re:

Gary F. Frascarelli d/b/a  
Gary's Ice Cream

Debtor

Chapter 13

Case No. 10-40810-HJB

**DEBTOR'S OBJECTION TO PROOFS OF CLAIM**

NOW COMES the Debtor, by his counsel, pursuant to Rule 3007 of the Rules of Bankruptcy Procedure, Rules 3007-1 and 13-13 of Local Rules of this Court, and states to this Honorable Court his objections to proofs of claim filed in the course of this case.

In support of this Objection, the Debtor states as follows:

1. On February 26, 2010, the Debtor caused to be filed a voluntary Chapter 13 bankruptcy petition with this Court.
2. The deadline for filing proofs of claim by non-governmental creditors was July 8, 2010.
3. As of the final date of filing claims, the Debtor has examined proofs of claim and has objections to various creditors' claim as follows:

<b>Claim No.</b>	<b>Creditor Name and Address</b>	<b>Claim Amount</b>	<b>Basis for Objection</b>
14	Chittenden Bank 2 Burlington Square Burlington, VT 05402 Attn: Carol Lefebune	Arrearage: \$ 810.30  Secured: \$6,241.56	See paragraph "a." below.

**Recommended Treatment:** Disallow the arrearage portion of the secured proof of claim and allowed the secured claim in the amount of \$5,431.26.

<b>Claim No.</b>	<b>Creditor Name and Address</b>	<b>Claim Amount</b>	<b>Basis for Objection</b>
27	Louis M. Saab 175 Central Street Ste. 234 Lowell, MA 01852	\$29,573.61	See Paragraph "b." below.

**Recommended Treatment:** Treat the claim as unsecured in its entirety.

a. Chittenden Bank (the "Bank") filed a secured Proof of Claim in the total amount of \$6,241.56 with pre-Petition arrearage included in that amount of \$810.30. Upon information and belief, the Debtor does not owe any pre-Petition arrearage. In addition, the Bank fails to set forth any calculations to evidence the pre-Petition arrearage owed to the Bank. Therefore, the Debtor believes that the amount of \$5,431.26 ( $\$6,241.56 - \$810.30 = \$5,431.26$ ) is owed the Bank on its secured proof of claim.

b. Louis M. Saab (the "Saab") has filed a secured Proof of Claim ("POC") in the amount of \$36,584.12 evidencing the indebtedness on its seventh (7<sup>th</sup>) position mortgage on the Debtor's property located at 105 Carlisle Street, Chelmsford, MA and 131 Gorham Street, Chelmsford, MA (the "property"). In the Chapter 13 Bankruptcy Schedules, the Debtor has placed a value on the property of \$390,000.00 based on a market analysis. The Debtor's First Amended Chapter 13 Plan filed on July 23, 2010, provides to modify the claim due Saab on the seventh

(7<sup>th</sup>) position mortgage and treat such claim as an unsecured claim in its entirety, pursuant to the provisions of 11 USC Section 1322(b)(2).

WHEREFORE, the Debtor respectfully requests this Honorable Court to allow the objections to the above referenced proofs of claim and allow the above claims as set forth above in the "Recommended Treatment", and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

Gary F. Frascarelli  
By his attorney,

Dated: August 5, 2010

/s/ Tali A. Tomsic

---

Michael B. Feinman  
BBO#545935  
Tali A. Tomsic  
BBO#553100  
Feinman Law Offices  
23 Main Street  
Andover, MA 01810  
Tel: 978-475-0080  
Fax: 978-475-0852  
Email:mbf@feinmanlaw.com  
Email:tat@feinmanlaw.com

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION**

In re:

Gary F. Frascarelli d/b/a  
Gary's Ice Cream

Debtor

Chapter 13

Case No. 10-40810-HJB

**CERTIFICATE OF SERVICE**

I, Tali A. Tomsic, hereby certify that I have this day served the Debtor's Objection to Proofs of Claim and Notice of Response Deadline, by mailing a true and accurate copy of same, if not shown as being served electronically, via first class mail and postage prepaid, to the following party in interest:

Chittenden Bank  
2 Burlington Square  
Burlington, VT 05402  
Attn: Carol Lefebune

Louis M. Saab  
175 Central Street  
Ste. 234  
Lowell, MA 01852

Thomas E. Flemming, Esq.  
Law Offices of Louis M. Saab  
175 Central Street  
Suite 234  
Lowell, MA 01852

Gary Frascarelli  
105 Carlisle Street  
Chelmsford, MA 01824

Denise M. Pappalardo, Chapter 13 Trustee  
[Denisepappalardo@ch13worc.com](mailto:Denisepappalardo@ch13worc.com)

Dated: August 5, 2010

/s/ Tali A. Tomsic  
Tali A. Tomsic

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION**

In re:

Gary F. Frascarelli d/b/a  
Gary's Ice Cream

Debtor

Chapter 13

Case No. 10-40810-HJB

**NOTICE OF RESPONSE DEADLINE**

Please take notice that a response to the Debtor's Objection to Proofs of Claim (the "Objection") must be filed within thirty (30) days of the filing of the Objection with the Court. A copy of the Objection is attached hereto.

Any responses or objections to the Debtor's Objection to Proofs of Claim must be filed with the Clerk of the United States Bankruptcy Court, 595 Main Street, Worcester, Massachusetts 01608.

Respectfully submitted,

Gary F. Frascarelli  
By his attorney,

Dated: August 5, 2010

---

/s/ Tali A. Tomsic  
Michael B. Feinman  
BBO#545935  
Tali A. Tomsic  
BBO#553100  
Feinman Law Offices  
23 Main Street  
Andover, MA 01810  
Tel: 978-475-0080  
Fax: 978-475-0852  
Email:mbf@feinmanlaw.com  
Email:tat@feinmanlaw.com